



# NEWS

Judicial Council of California  
ADMINISTRATIVE OFFICE OF THE COURTS  
Public Information Office  
(415) 865-7740

Lynn Holton, Public Information Officer

Release Date: December 18, 2002

Release Number: S.C. 51/02

## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF DECEMBER 9, 2002**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-199 People v. Wilkinson, S111028. (B145982, B154520; 102 Cal.App.4th 72.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses, and issued an order to show cause returnable before the trial court on a petition for writ of habeas corpus. This case presents the following issues: (1) Does the statutory scheme permitting battery on a custodial officer to be charged as a straight felony, a straight misdemeanor, or a felony/misdemeanor “wobbler” (see Pen. Code, §§ 243, 143.1) violate equal protection? (2) Was defendant entitled to a Kelly/Frye hearing (see People v. Kelly (1976) 17 Cal.3d 24; Frye v. United States (D.C. Cir. 1923) 293 F. 1013) regarding the admissibility of evidence of results of a polygraph examination, or is such evidence admissible only pursuant to a stipulation of the parties under Evidence Code section 351.1?

#02-200 County of Los Angeles v Seneca Ins. Co., S111097. (B152761; unpublished opinion.) Petition for review after the Court of Appeal affirmed an order denying a motion to vacate the forfeiture of a bail bond in a criminal case. The court ordered briefing deferred pending decision in People v. Seneca Ins. Co., S104487 (#02-45), which presents the following issue: Are the requirements of Penal Code section 1166, specifying the findings a trial court must make before releasing a convicted

(over)

defendant on bail prior to sentencing, applicable where the defendant pleads guilty or no contest or only where the defendant is convicted on a verdict of guilty?

#02-201 People v. Newman, S111133. (B155445; unpublished opinion). Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Sanders, S094088 (#01-21), which presents the following issues: (1) Should this court reconsider the holding in In re Tyrell J. (1994) 8 Cal.4th 68, 74, that the otherwise illegal search of a minor who is subject to a probation search condition is “not unconstitutional despite the officer’s ignorance of the search condition”? (2) If the court’s holding in Tyrell J. remains viable, should that holding apply to adult parolees who are subject to search conditions? (3) Under People v. Robles (2000) 23 Cal.4th 789, does the admissibility of the fruits of the search in the present case differ as to a defendant who was not subject to a search condition as compared to a defendant who was?

## **DISPOSITIONS**

#01-54 People v. Nguyen, S095925, was transferred to the Court of Appeal for reconsideration in light of People v. Hurtado (2002) 28 Cal.4th 1179.

The following cases were dismissed and remanded to the Court of Appeal:

#01-162 People v. Gordon, S101457.

#00-36 People v. Kelley, S085323.

#99-195 People v. Thammavong, S083301.

#02-122 People v. Torres, S107385.

#